



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street, 3rd Floor
New York, New York 10007

April 18, 2022

By ECF

The Honorable Katharine H. Parker
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

APPLICATION GRANTED

Katharine H. Parker
Hon. Katharine H. Parker, U.S.M.J.
04/19/2022

Re: *Alvarez v. Immigration and Customs Enforcement, et al.*, No. 22-cv-1425 (KHP)

Dear Judge Parker:

This Office represents the United States Department of Homeland Security and Immigration and Customs Enforcement (“Defendants”) in connection with the above-referenced action brought pursuant to the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* (“FOIA”). I write on behalf of the parties in advance of the May 4, 2022 initial conference to provide a report of the Rule 26(f) meeting between the parties and a proposed case management plan (“Report”), as required by the Court’s March 29, 2022 Initial Case Management Conference Order. (ECF No. 13.) As outlined below, the parties respectfully request that the initial conference on May 4, 2022 be adjourned *sine die*, and propose that the parties provide a status update to the Court on or before July 29, 2022.

While the Court’s order scheduling the initial case management conference sets forth certain information for the parties to include in the Report, the parties respectfully request that they be relieved of the obligation to file a proposed case management plan and discovery schedule. Because this is an action filed pursuant to FOIA, it is unlikely to involve civil discovery; nor do the parties currently foresee any need for discovery. Moreover, pursuant to Local Civil Rule 16.1, the case is exempt from the requirement of a mandatory scheduling order contained in Fed. R. Civ. P. 16(b). The parties expect that this case will be resolved either through the parties’ agreement, or by the submission of cross-motions for summary judgment based on agency declarations. *See Carney v. DOJ*, 19 F.3d 807, 812 (2d Cir. 1994). Accordingly, the parties respectfully submit the following proposed schedule as to the production of documents responsive to Plaintiff’s FOIA request.

Defendants have gathered approximately 740 pages of documents potentially responsive to the FOIA request. The parties have agreed on the following production schedule for responsive documents. Defendants will review and process 250 pages of documents per month. Defendants will make their initial production by May 13, 2022. Defendants will then review and

process an additional 250 pages of documents by June 17, 2022. Then, by July 15, 2022, Defendants will review and process the remaining documents.

The parties respectfully request that, after Defendants' final production, the parties submit a status update to the Court by July 29, 2022, regarding any potential outstanding issues.

A summary of the pertinent information required by the Report is included below:

1. Summary of Claims, Defenses, and Relevant Issues

As a brief overview of this action, Guillermo Linares Alvarez, bring suits pursuant to FOIA seeking documents related to himself, including "records of interactions with ICE; ICE arrest records, detention center records; requests for detainer or notification forms; and investigation records." Complaint, ECF No. 1, Ex. A. In an effort to obtain these documents, Plaintiff submitted a FOIA request to ICE on December 17, 2021. After ICE did not produce documents responsive to the FOIA request, Plaintiffs initiated this action on February 21, 2022. The parties consented to all further proceedings before Your Honor on March 28, 2022. (ECF No. 11.) Defendant answered the complaint on April 6, 2022. (ECF No. 14.)

The parties do not anticipate any issues regarding jurisdiction or venue, and there are no contemplated motions pursuant to Federal Rules of Civil Procedure 12(b) or 12(c).

2. Basis of Subject Matter Jurisdiction

The Court has jurisdiction over this action pursuant to FOIA, 5 U.S.C. § 552(a)(4)(B).

3. Subjects on Which Discovery May Be Needed and Anticipated Discovery Disputes

The parties expect this case to be resolved without need for discovery, as is typical of FOIA cases.

4. Amendments to Pleadings and Joinder of Parties

The parties do not foresee a need for any deadlines to join additional parties or amend the pleadings.

5. Anticipated Motions

The parties respectfully request that by July 29, 2022, the parties submit a status update to the Court regarding any potential outstanding issues, including whether the parties will seek a pre-motion conference regarding cross-motions for summary judgment.

6. Early Settlement or Resolution

The parties have agreed to a processing schedule for the production of responsive documents, after which the parties will assess whether any disputes remain, and thus do not foresee the need for a mediation or settlement conference at this time.

7. Trial

The parties expect this case to be resolved without need for trial, as is typical of FOIA cases. The parties expect that any contested issues will be resolved through cross-motions for summary judgment.

* * *

Accordingly, the parties respectfully request an adjournment of the May 4, 2022 initial conference *sine die*, and instead propose filing a status report no later than July 29, 2022.

The parties thank the Court for its attention to this matter.

Respectfully submitted,

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Southern District of New York

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